

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
v.)	NO.: 3:08-cr-142
)	JUDGE PHILLIPS
DAVID C. KERNELL)	

**MOTION FOR LEAVE TO FILE UNDER SEAL
MEMORANDUM FOR DOWNWARD DEPARTURE AND VARIANCE AND EXHIBITS**

Comes the defendant, David C. Kernell, by and through undersigned counsel, and hereby moves this Court for an order allowing him to file under seal the Memorandum in Support of his Motion For Downward Departure and Variance. In support of this Motion, Mr. Kernell would show as follows:

1. A sentencing hearing has been set in this case for November 12, 2010.
2. Mr. Kernell has filed on ECF a Motion for Downward Departure and Variance setting out the primary grounds for a departure and variance.
3. The memorandum in support of the motion and its attached exhibits, however, contain confidential information, including protected health information from treatment when Mr. Kernell was a juvenile.
4. The memorandum quotes from and relies upon the Presentence Investigation Report, which is a confidential court document.
5. The memorandum contains confidential educational records.
6. The memorandum and attachments contain personally identifying information from a number of individuals, including family members.
7. Some of the issues discussed in the memorandum and contained in the attachments are so personal and confidential that if the Court denies the motion to seal, Mr.

Kernell requests the opportunity to withdraw the memorandum or, in the alternative, to attempt to redact the filings.

Respectfully submitted this 26th day of October, 2010.

RITCHIE, DILLARD & DAVIES, P.C.

/S/ WADE V. DAVIES
WADE V. DAVIES [BPR #016052]

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been filed electronically this 26th day of October, 2010. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ Wade V. Davies
WADE V. DAVIES